

MINUTES
Montana Fish, Wildlife & Parks
Commission Conference Call Meeting
1420 East 6th Avenue – Helena Headquarters - Helena, MT 59620
AUGUST 31, 2010

Commission Members Present: Bob Ream, Chairman; Dan Vermillion, Vice-Chairman; Shane Colton; Ron Moody; Willie Doll.

Fish, Wildlife & Parks Staff Present: Jim Kropp, Quentin Kujala, Bill Schenk, Jeff Herbert, Mark Lere, Carolyn Sime, Dave Risley, Ron Aasheim, Eileen Ryce, Regena Peterson, Art Noonan, Mack Long.

Guests / Media Present: Eve Byron, Independent Record; Matt Brown, Associated Press.

Topics of Discussion:

1. **Opening – Call to Order**
2. **Wolf Update**
3. **2010 Late Season Waterfowl Seasons and Closures – Final**
4. **2010 CSKT Upland Bird and Waterfowl Regulations – Final**
5. **Mitchell Slough Waterfowl Hunting Agreement – Proposed**
6. **Elkhorn Mountains Maupin Creek Beaver Relocation - Endorsement**
7. **Future Fisheries Projects – Final**
8. **Classification of Exotic Wildlife Rule (Coho Salmon) - Endorsement**

1. **Call to Order.** Chairman Ream called the Commission conference call meeting to order at 10:00 am.

2. **Wolf Update.** Dave Risley, FWP Fish & Wildlife Division Administrator, stated that several meetings had been held to discuss the wolf listing issue. Much frustration was expressed at the recent Tri-State meeting with Idaho and Wyoming about the loss of state management over wolves. Wyoming Fish and Game's position is legislatively mandated. Another meeting was held at the Helena Colonial Red Lion Motel with many interested parties in attendance. A summary of that meeting was provided to over 400 individuals and sportsmen's groups.

Director Maurier submitted a letter (copy of letter attached) to Rowan Gould, USGWS Acting Director, "requesting assurances from the U.S. Fish and Wildlife Service that a 10(a)(1)(A) enhancement of survival permit application will be processed and issued by November 30, 2010 to enable an abridged conservation hunt for gray wolves in 2010. FWP is also requesting the USFWS immediately promulgate simultaneous rules to downlist the Endangered portion of the Northern Rocky Mountain Distinct Population Segment of gray wolf, as well as a 4(d) rule to allow population management through a statewide conservation hunt, with the intention of having final rules in place by March 31, 2011 to enable a 2011 conservation hunt". The Director requested a written response by September 10, 2010. If the Service acts quickly, a season can still be salvaged.

Additional discussions have included drafting language to amend the Endangered Species Act. The suggested language is for Congress to reaffirm the original intent, with different classifications within state boundaries that include endangered, threatened, and no classification.

Colton stated that he appreciates efforts to address this at the national level, and although he is sympathetic to the Wyoming Commission's plight, he questions how Montana can address the situation when the Service won't approve Wyoming's plan.

Risley stated that the root of the problem is the Endangered Species Act. He added that Wyoming's governor was quoted as saying he has not been contacted by the Governors of Idaho or Montana. A policy has to come from that level. The best long-term solution would be for the Service to designate listings by states, for wolves as well as other species.

Vermillion said the public needs to understand that Montana's obstruction is due to Wyoming's legislature. Montana has done a good job in managing wildlife and it is important not to be penalized.

Ream questioned whether the Service might approve the plan that was in place before it was reversed. Judge Molloy's decision was based on his interpretation of the rules as they are now.

Risley said the current administration would not revisit the plan that was approved in 2008, as it was overturned by Judge Molloy as being inadequate.

Action: Moody moved and Vermillion seconded the motion that the Commission develop a Resolution of explanation of FWP's recommendation to the Endangered Species Act for delivery to the Secretary of the Interior with a cover letter signed by the FWP Commission Chair endorsing Director Maurier's letter to the US Fish and Wildlife Service.

Colton questioned if a resolution would be a full fix to the problem, and what the depredation plans are for lethal removal. Does the Service have money to handle increased depredation issues? The strategy was for hunters to reduce the wolf population. Wyoming has taken away Montana's authority to manage wolves, and the public needs to know that.

Doll agreed that the public needs to be kept informed – information needs to be published via the media and in publications.

Action on Motion: Motion carried.

Caroline Sime, FWP Wolf Coordinator, said that relisting creates dual status with two sets of federal regulations. FWP can authorize lethal control for confirmed losses, to include removal of packs if necessary. The goal is to streamline communication in the context of agency efficiency.

Risley said FWP has an obligation to continue helping producers. The Defenders of Wildlife will no longer provide funding.

Action: Moody moved that the Montana FWP Commission affirm that the wolf hunting season and harvest quota previously established is still in effect, but is suspended indefinitely pending outcome of appeal litigation in federal court. No second.

Vermillion said to wait until a response is received in September.

Ream said the intention is to keep the season in place, and Moody's motion would close it. He suggested holding off pending action by the Service.

Action on Motion: Moody withdrew the motion.

Doll said with so many disgruntled people, he fears there will be more wolves dispatched illegally than if there were a season.

Ream said breaking the law is not the answer.

3. 2010 Late Season Waterfowl Seasons and Closures – Final. Jeff Herbert, FWP Assistant Wildlife Bureau Chief, said there are no recommended changes to the proposed liberal package.

Action: Doll moved and Colton seconded the motion to adopt the 2010 Late Season Waterfowl Seasons and Closures as recommended by the Department. Motion carried.

4. 2010 CSKT Upland Bird and Waterfowl Regulations – Final. Jeff Herbert, FWP Assistant Wildlife Bureau Chief, explained that FWP and CS&KT have entered into a joint Flathead Reservation Management Agreement. They submit their proposed regulations to FWP for endorsement after approval by the Flathead Reservation Fish and Wildlife Board and the CS&KT Tribal Council. Their regulations are similar to those of FWP with the exception that their shooting hours are from sunrise to sunset, and they only allow non-toxic shot to be used on the Reservation. FWP recommends approval.

Action: Vermillion moved and Doll seconded the motion to endorse the Confederated Salish and Kootenai Tribes' upland game bird and waterfowl regulations as presented. Motion carried.

5. Mitchell Slough Waterfowl Hunting Agreement – Proposed. Jeff Herbert, FWP Assistant Wildlife Bureau Chief, explained that through a legal decision, Mitchell Slough is now recognized as a public waterway legal to waterfowl hunting. It is narrow, which results in birds landing on private property where it is illegal to retrieve them without landowner permission. A

special hunting access agreement has been developed with the Double Fork Ranch that designates a specific area where waterfowl hunting could occur, with the ability to retrieve harvested waterfowl regardless of where they fall on the surrounding private land.

A quality blind would be installed by the landowner and available for the public, through Block Management, to be used exclusively by the public. The Slough through the Double Fork Ranch property would not be open to the public unless they have written permission from the Ranch. The Ranch would create a parking area and walk-in access to the site. Public meetings generated support for this proposed agreement.

Mack Long, FWP Region 2 Supervisor, concurred there has been public support, and added that this agreement would be a benefit to landowners and sportsmen, and perhaps in time, other ranchers will wish to participate too.

Action: Vermillion moved and Moody seconded the motion to adopt the Access Agreement that would provide full public access for waterfowl hunting at the proposed location, and in turn, access would be by written permission only along the Mitchell Slough where it runs through the remainder of the Double Fork Ranch.

Herbert stated that the season will open before this is finalized at the October Commission meeting.

Colton suggested a conference call be conducted to take final action.

Herbert said a two-week comment period is required.

The Commission agreed to hold a conference call after September 15.

Action on Motion: Motion carried.

6. Elkhorn Mountains Maupin Creek Beaver Relocation – Endorsement. Jeff Herbert, FWP Assistant Wildlife Bureau Chief, explained that the region proposes to restore beaver s on the north end of the Elkhorn Mountains to re-establish extirpated colonies. The intent is to relocate them this fall with enough time for them to develop a food cache and to establish homes. They will be translocated from the upper Missouri River watershed. An EA is currently posted for public comment.

Action: Colton moved and Vermillion seconded the motion to approve the Elkhorn Mountains Maupin Creek Beaver Relocation project in Region 3. Motion carried.

7. Future Fisheries Projects – Final. The Future Fisheries Improvement Program provides funds for projects that restore fishery habitats in streams, rivers and lakes for the benefit of wild fisheries. Applications are reviewed twice each year by a citizen review panel, who then forwards their recommendations to the Commission for consideration. Mark Lere, FWP Habitat Restoration Program Officer, explained that seventeen applications were received. The review panel met in June to discuss them, and their recommendation is to fund eleven of them at a cost of \$286,030. Matching funds or in-kind contributions from outside sources total \$1,534,834.

Action: Vermillion moved and Colton seconded the motion to approve the Citizen Panel funding recommendations for the 2010 Summer funding cycle of the Future Fisheries Improvement Program. Motion carried.

8. Classification of Exotic Wildlife Rule (Coho Salmon) – Endorsement. Eileen Ryce, FWP Aquatic Nuisance Specialist, explained that at the July Commission meeting the proposed rules included adding the Coho Salmon as a Controlled species. The fish health committee is now requesting that an additional control requirement be added to the rule stating: "Only gametes of Coho Salmon will be allowed for import". They also request an additional fifteen days be added to the public comment period to allow time for public review of this amendment to the proposed rules. Ryce stated that the fish health committee wants to minimize the risk of disease, which this gametes restriction would do. All would be fish health tested. The Rule will not allow live fish, but gametes (fertilized eggs) are acceptable. The Colony would bring in fertilized eggs from Washington.

A lengthy discussion was held regarding the definition of "gamete".

Action: Ream moved and Vermillion seconded the motion to approve proposing the additional control requirement that only gametes of Coho Salmon be allowed for import and that the public comment period be extended. Motion carried.

Action: Colton moved and Vermillion seconded the motion to adjourn the conference call meeting. Motion carried.

The conference call meeting adjourned at 11:30 a.m.

Bob Ream, Chairman

Joe Maurier, Director



Montana Fish, Wildlife & Parks

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Ref:DO307-10

August 30, 2010

Mr. Rowan Gould - Acting Director

U.S. Fish and Wildlife Service

1849 C Street, NW

Washington, DC 20240

Copy of Letter Sent to USFWS

Dear Mr.Gould:

Wolves in the northern Rocky Mountains and in Montana are recovered and far exceed recovery criteria in the revised recovery plan. Montana has done everything asked of it to achieve recovery and meet delisting criteria, to include acceptable regulatory mechanisms. Yet, because of factors beyond Montana's control, gray wolves were returned to the federal endangered species list through court order. With the return of wolves to the endangered species list, management flexibility has been greatly reduced, and there doesn't appear to be a plan for delisting wolves in the northern Rocky Mountains in the foreseeable future.

Montana requires regulatory relief in order to manage wolves until such time as they can be delisted. By this letter Montana Fish, Wildlife and Parks (FWP) is requesting assurances from the U.S. Fish and Wildlife Service (USFWS) that a 10(a)(1)(A) enhancement of survival permit application will be processed and issued by November 30, 2010 to enable an abridged conservation hunt for gray wolves in 2010. FWP is also requesting the (USFWS) immediately promulgate simultaneous rules to downlist the Endangered portion of the Northern Rocky Mountain Distinct Population Segment of gray wolf, as well as a 4(d) rule to allow population management through a statewide conservation hunt, with the intention of having final rules in place by March 31, 2011 to enable a 2011 conservation hunt. We view the use of public hunting as the optimum population management tool.

FWP wants to work on these avenues of regulatory relief with the USFWS in a collaborative, proactive manner. However, time is of the essence and we request a written response to these requests by September 10, 2010 in order to determine next steps and assign agency resources.

The USFWS recognized that wolves in the Montana and Idaho portion of the Northern Rocky Mountain DPS were recovered when they delisted them in 2008. Their numbers have continued to increase since then. While Judge Molloy remanded the delisting decision, his ruling did not indicate any concern with population levels or management in Montana or Idaho. His ruling was based specifically on the USFWS's carving out of Wyoming from the delisting rule because Wyoming does not have an approved wolf management plan. Because wolves in Montana are recovered, because Montana has an approved wolf management plan, and because Montana has demonstrated responsible, effective wolf management, FWP is confident that implementation of a conservation hunt under Section 10(a) (2010) and Section 4(d) (2011 and beyond) is legal, defensible, and necessary.

Montana has been effectively managing wolves for the past several years. Management is guided by the Montana Wolf Management Plan (completed in 2003). The Montana wolf plan outlines an adaptive management framework, through which FWP will work to integrate gray wolves into the natural and human landscapes. Wolves will be conserved and managed in conjunction with Montana's other resident wildlife. As you are aware, wolves in Montana greatly exceed federal recovery goals identified in the Wolf Recovery Plan and the minimum conservation goals of 150 wolves and 15 breeding pairs in Montana's wolf management plan – a plan that was deemed adequate by the USFWS.

Montana began 2010 with a minimum of 504 wolves, even after a conservative but successful 2009 hunting season. This number of wolves has reached a level where biological and social impacts are exceeding carrying capacity. FWP has developed a hunting season structure and quota that will enable addressing of impacts associated with this high number of wolves, while still far exceeding federal and state recovery criteria. The objectives of the conservation hunt were developed through a structured decision-making process and were endorsed by the FWP Commission.

They include:

- *Maintain a viable and connected wolf population in Montana.*
- *Gain and maintain authority for State of Montana to manage wolves.*
- *Maintain positive and effective working relationships with livestock producers, hunters, and other stakeholders.*
- *Reduce wolf impacts on livestock.*
- *Reduce wolf impacts on big game populations.*
- *Maintain sustainable hunter opportunity for wolves.*
- *Maintain sustainable hunter opportunity for ungulates.*
- *Increase broad public acceptance of sustainable harvest and hunter opportunity as part of wolf conservation.*
- *Enhance open and effective communication to better inform decisions*
- *Learn and improve as we go.*

FWP is committed to managing and conserving wolves under the guidance of these objectives. Please note the first objective – maintain a viable and connected wolf population in Montana.

Wolves in Montana are recovered. Montana has and will continue to manage wolves so they remain an integral part of Montana's wildlife heritage. To do so requires the ability to manage wolf populations to address both social and biological factors. While wolves remain on the Endangered Species List because of factors beyond Montana's control, it is important that mechanisms for management of wolves in Montana be allowed. Those mechanisms must include take authority under Section 10 and Section 4.

FWP is committed to managing wolves, and requests assistance from the USFWS to do so. I look forward to your reply by September 10.

Sincerely,

Joe Maurier
Director

c: Governor Brian Schweitzer
Ken Salazar, Secretary of Interior
Senator Max Baucus
Senator Jon Tester
Representative Denny Rehberg
Montana Wolf Coalition
Dan Ashe, USFWS, Washington, D.C.
Gary Frasier, USFWS, Washington, D.C.
Steve Guertin, USFWS, Denver
Robyn Thorson, USFWS, Portland